

## PLANNING COMMISSION MINUTES

Gardner, Kansas  
Monday, August 13, 2007

The Planning Commission met in regular session on the above date at the Gardner City Hall, 120 E. Main Street, Gardner, Kansas.

### I. Call to Order

Chairman Koranda called the meeting to order at 7:03 p.m. Commissioners present: Stephen Koranda, Greg Godwin, Dan Popp, Eric Schultz (7:07 P.M.), Eileen Mertz (7:09 P.M.) and Jason Burnett. Commissioners absent: Paul Kilgore. Also present: Community Development Director Fred Sherman; Planners Amy Banks and Jennifer Dady; Eric Dodge from Apex Companies; David Waters from Lathrop & Gage; Peter Solie from Gardner Chamber of Commerce; Joel Riggs from Peridian Group, Inc. and one concerned citizen.

### II. Pledge of Allegiance

Chairman Koranda led the Pledge of Allegiance.

### III. Approval of Minutes

The minutes of the July 23, 2007 meeting, were approved by unanimous consent.

### IV. Consent Items

Chairman Koranda requested that Item #4 (FDP-05-03) be removed from the Consent Agenda.

#### 1. FP-07-14 Cottage Park West, 23<sup>rd</sup> Plat Final Plat

Consider a Final Plat for Cottage Park West, 23<sup>rd</sup> Plat, a .29 acre multi-family residential development located at 864-872 S. Woodson Court. The application is filed by Collective Investments, L.L.C.; with engineering services provided by Green Engineering Services, Inc.

1. **APPLICANT:** The applicant is Collective Investments, L.L.C.; with engineering services provided by Green Engineering Services, Inc.
2. **REQUESTED ACTION:** The applicant requests final plat approval for a tract of land containing approximately 0.287 acres for a planned multi-family residential development.
3. **LOCATION:** The property is located at 864 to 872 S. Woodson Court.
4. **EXISTING ZONING:** The property is zoned RP-3, Planned Garden Apartment District (Z-03-01).
5. **ANALYSIS:** The applicant requests approval of a final plat for Cottage Park West, 23<sup>rd</sup> Plat. Approval for this replat is requested to divide the individual units of the multi-family building currently under construction into separate lots for sale.
6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission approve the Final Plat for Cottage Park West, 23<sup>rd</sup> Plat (FP-07-14), and forward the item to the City Council with a recommendation to accept the easements and rights-of-way, with no conditions.

#### 2. FP-07-15 Cottage Park West, 24<sup>th</sup> Plat Final Plat

Consider a Final Plat for Cottage Park West, 24<sup>th</sup> Plat, a .25 acre multi-family residential development located at 886-890 S. Woodson Court. The application is filed by Collective Investments, L.L.C.; with engineering services provided by Green Engineering Services, Inc.

1. **APPLICANT:** The applicant is Collective Investments, L.L.C.; with engineering services provided by Green Engineering Services, Inc.
2. **REQUESTED ACTION:** The applicant requests final plat approval for a tract of land containing approximately 0.247 acres for a planned multi-family residential development.
3. **LOCATION:** The property is located at 886 to 890 S. Woodson Court.

4. **EXISTING ZONING:** The property is zoned RP-3, Planned Garden Apartment District (Z-03-01).
5. **ANALYSIS:** The applicant requests approval of a final plat for Cottage Park West, 24<sup>th</sup> Plat. Approval for this replat is requested to divide the individual units of the multi-family building currently under construction into separate lots for sale.
6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission approve the Final Plat for Cottage Park West, 24<sup>th</sup> Plat (FP-07-15), and forward the item to the City Council with a recommendation to accept the easements and rights-of-way, with no conditions.

### 3. FP-07-16 Cottage Park West, 25<sup>th</sup> Plat Final Plat

Consider a Final Plat for Cottage Park West, 25<sup>th</sup> Plat, a .19 acre multi-family residential development located at 895–899 S. Woodson Court. The application is filed by Collective Investments, L.L.C.; with engineering services provided by Green Engineering Services, Inc.

1. **APPLICANT:** The applicant is Collective Investments, L.L.C.; with engineering services provided by Green Engineering Services, Inc.
2. **REQUESTED ACTION:** The applicant requests final plat approval for a tract of land containing approximately 0.190 acres for a planned multi-family residential development.
3. **LOCATION:** The property is located at 895 to 899 S. Woodson Court.
4. **EXISTING ZONING:** The property is zoned RP-3, Planned Garden Apartment District (Z-03-01).
5. **ANALYSIS:** The applicant requests approval of a final plat for Cottage Park West, 25<sup>th</sup> Plat. Approval for this replat is requested to divide the individual units of the multi-family building currently under construction into separate lots for sale.
6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission approve the Final Plat for Cottage Park West, 25<sup>th</sup> Plat (FP-07-16), and forward the item to the City Council with a recommendation to accept the easements and rights-of-way, with no conditions.

Motion Godwin, Second Popp, to forward the Final Plat for Cottage Park West, 23<sup>rd</sup> Plat, (FP-07-14) , Cottage Park West, 24<sup>th</sup> Plat (FP-07-15) and the Final Plat for Cottage Park West, 25<sup>th</sup> Plat, (FP-07-16) to the City Council with recommendations for approval of the easements and rights-of-way, each subject to staff recommendations.

Motion Carried: 4 to 0 Aye (Kilgore, Mertz and Schultz: Absent.)

## V. Agenda Items

### (4.) FDP-05-03 Gardner Retail Plaza (Wal-Mart) revised Final Development Plan

Consider a revised Final Development Plan for Gardner Retail Plaza (Wal-Mart) located at 1725 E. Santa Fe Street for modifications to the western and southern fencing and screening elements. The application is filed by Apex Companies LLC.

1. **APPLICANT:** The application is filed by Apex Companies LLC on behalf of Wal-Mart Stores, Inc.
2. **REQUESTED ACTION:** The applicant requests approval of a revised final development plan for modifications to the western and southern fencing and screening elements of the approved plan. The original final development plan under this case number was approved by the Planning Commission at the July 11, 2005 meeting for the expanded store.
3. **LOCATION:** The property is located at the southwest corner of the Cedar Niles Road and E. Santa Fe Street intersection, addressed as 1725 E. Santa Fe Street.
4. **EXISTING ZONING:** The property is currently zoned CP-2, Planned General Business District (Z-04-06), and M-1, Restricted Industrial District.
5. **ANALYSIS:** The applicant requests approval of a revised final development plan for modifications to the western and southern fencing and screening elements of the approved plan.

The Wal-Mart store in Gardner, Kansas was developed utilizing a Tax Increment Financing (TIF) district to help pay for:

- street improvements to the U.S. 56 Hwy and Cedar Niles Road intersection;
- improvements to Santa Fe Street;
- for the mitigation and removal of the Conestoga sewer lagoon; and,

- re-routing Bull Creek to the west of the building footprint along with on-site wet-lands mitigation area.

The open ditch and wet-bottom landscape elements at the south end of the property are site improvements permitted specifically by the U.S. Army Corps of Engineers as part of the 404-permit process on the wetlands mitigation and creek realignment necessary for the development of this site.

The submitted plan is to install an 8-foot tall "Montage Plus Invincible Panel" fence about 10 feet east of the top of the landscape berm, that are along the western property line adjacent to the Conestoga Mobile Home complex property. This will allow for the turf landscaped area to be mowed and trimmed on both sides of the proposed fence, as the 404 permit issued by the U.S. Army Corps specified that the only 20 feet down the slope would be maintained at turf height, and below that level and throughout the drainage paths and wetland/retention area, it is the requirement of the Corps of Engineers to leave the property as natural as possible. The proposed fence at the southeastern portion of the site will be an 8 foot tall that then connects into the KDOT rights-of-way fence along Interstate 35.

The location of the proposed fence is all outside the floodplain and wet land areas that were permitted and regulated by the U.S. Army Corps of Engineers. Landscaped areas adjacent to the proposed fences, as well as some open space areas "inside" the proposed fenced are mowed and maintained on a seasonal basis. Gates are being proposed to allow access into the wet land open space area.

In addition to the fence improvements, a new defined pedestrian access will be established with a defined opening in the existing wooden privacy fence, north of the sanitary sewer lift station location enclosure.

6. **STAFF RECOMMENDATION:** Staff recommends approval of the revised final development plan for Gardner Retail Plaza (Wal-Mart) (FDP-04-04); for modifications to the western and southern fencing and screening elements of the approved plan with no additional stipulations from the July 11, 2005 action.

Chairman Koranda asked Commissioner Popp if the proposed fence fulfills the request made by Commissioner Popp at the July 23, 2007 meeting. Commissioner Popp stated the proposed fence is very similar to what was recommended at the previous meeting. Chairman Koranda and the applicant discussed the location of the fence and location of a gate, if any.

Motion Schultz, Second Burnett, to Approve Agenda Item No. (4): 6 to 0 Aye (Kilgore: Absent)

Motion Carried: 6 to 0 Aye (Kilgore: Absent)

## 1. Amendment to Chapter 17, Subdivision Regulations

Conduct a public hearing to consider amendments to Chapter 17.

Director Sherman requested that Agenda Item No. 1 (Amendments to Chapter 17, Subdivision Regulations), be removed from the August 13, 2007 meeting agenda and forwarded to the August 27, 2007 meeting.

Motion Mertz, Second Schultz, to Table Agenda Item No. 1 to the August 27, 2007 meeting.

Motion Carried: 6 to 0 Aye (Kilgore: Absent)

## 2. PDP-07-04/Z-07-05 Granite Springs Preliminary Development Plan and Rezoning

Conduct a public hearing and consider rezoning Granite Springs from A (Agricultural District) to CP-2 (Planned General Business District) and C-O (Office Building District) for a 26.6 acre property located at the northeast corner of 167<sup>th</sup> Street and Waverly Road. The application is filed by Jabez Development, L.L.C.; with engineering services provided by Peridian Group, Inc.

### Public Hearing Notification Process

Based on state statute and local ordinance provisions, notices for public hearings must appear in the official City newspaper at 20 days prior to the date set for the hearing (16-1508 and K.S.A.12-757). The notice to the newspaper and written notice sent to property owners both denoted that the Public Hearing on this application would be conducted at the July 23, 2007 Planning Commission meeting, but notice did not appear in the newspaper in time to meet the July 2, 2007 deadline. As a result, the public hearing was opened at the July 23, 2007 meeting, but could not be concluded at that meeting.

1. **APPLICANT:** The applicant is Jabez Development, L.L.C.; with engineering services provided by Peridian Group, Inc.

2. **REQUESTED ACTION:** The applicant requests rezoning of approximately 26.6 acres from A (Agricultural District) to CP-2 (Planned General Business District) and C-O (Office Building District), and approval of the associated preliminary development plan (PDP-07-04).
3. **LOCATION:** The property is located at the northeast corner of the 167<sup>th</sup> Street and Waverly Road intersection.
4. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. Given the fact that the Development Plan Map shows the subject property as appropriate for low-density residential uses, the proposed CP-2, Planned General Business District, does not conform to the adopted Community Development Plan.

The Community Development Plan pursues appropriate quantities and locations of commercial land throughout the City. The locational criteria for commercial development, as discussed in the Commercial Land Use Goals, should be used as the basis for locating future commercial areas on the Development Plan Map and Future Land Use Map. The Commercial Land Use Goals are also used to evaluate the appropriateness of all rezoning and final development plan proposals for retail commercial developments. Commercial development areas are designed to occur in "nodes" to avoid continuous lineal shallow lot depth commercial development along the City's street corridors.

Specific adopted policies in the Community Development Plan regarding commercial land uses are:

**Policy 1.5: Contain Commercial Development -**

Encourage the formation, retention, and expansion of commercial development within the existing commercial boundaries as shown on the Community Development Plan Map.

**Policy 2.1: Use Appropriate Transitional Methods -**

Appropriate transitional methods should be considered at all locations where the development or expansion of commercial land use abuts residential property (either built or zoned). The city strives to meet the following objectives when compatible transition is necessary:

- a) Site Orientation:
  - 1) Site design should be oriented toward thoroughfare or commercial streets.
  - 2) Site access should be off of thoroughfare or commercial streets.
  - 3) Where appropriate, streets may be used as boundaries between commercial and residential land uses.

**Policy 2.3: Allow the Option of Low-Intensity Office as Transitional Use -**

Allow low-intensity office development as an alternative transitional land use into low-density residential neighborhoods with these conditions:

- a) Such development must be compatible in architectural design, height, bulk, and building materials to the adjacent low-density residential developments.
- b) Such development must demonstrate compatible site design by the use of extensive screening, building and parking orientation, and preservation of natural site amenities.
- c) Traffic generated by such development must be directed away from residential areas and on to commercial streets.
- d) Such development is limited to areas shown as Office on the Community Development Plan Map.

**Policy 3.1: Follow Locational Criteria for All Commercial Development -**

The locational criteria for all commercial development are:

- a) Limit commercial development to the areas shown as Commercial on the Community Development Plan Map.
- b) Discourage the formation or expansion of strip commercial development by focusing new growth in a more clustered pattern.
- c) Promote the assembling of small tracts to form larger, more cohesive parcels to enable well-planned and orderly development to occur.
- d) Encourage commercial development to form as part of existing or new shopping centers as opposed to isolated parcels along commercial strips.
- e) Limit the principal access of commercial development to thoroughfare, reverse frontage, or commercial streets.
- f) Encourage commercial development to locate on sites having minimal slope to avoid substantial grading and disruption of natural drainage and vegetation.
- g) Promote the retention of stands of trees, natural vegetation, and environmentally sensitive areas whenever possible to act as buffers between developments and as site amenities within developments.

**Policy 4.1: Avoid Exceeding Street Capacity -**

Discourage the expansion of existing or the inclusion of new commercial development in areas where, even with street and traffic signal improvements, the additional traffic generated by such development would exceed the handling capacity of the street system.

5. **ANALYSIS:**

**History of Commercial Zoning Requests on this Subject Property**

At the October 9, 2006, meeting, the Planning Commission voted 4-1 to recommend to the City Council approval of Z-06-08, rezoning 26.7 acres from Agricultural to CP-2 (Planned General Business District) subject to developing stipulations of

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approval and a revised development plan to be submitted for final approval by the Planning Commission at the October 23, 2006 meeting. The revised development plan (PDP-06-08) was forwarded to City Council with a recommendation for approval (6-0) at the October 23, 2006 meeting. City Council unanimously denied the rezoning request (Z-06-08) at their November 6, 2006 meeting.

At the April 20, 2007 meeting, the Planning Commission determined that a new rezoning application for the proposed commercial area of Granite Springs, located on the northeast corner of the 167th Street and Waverly Road intersection, which would include a CP-2; Planned General Business District, and a C-O; Office Building District (this subject application), would not be substantially the same as previous rezoning applications for the subject area; and could be submitted for consideration prior to the 12 months from denial of rezoning case Z-06-08 by the City Council as set forth by City code.

### **Commercial Land Use in the Northwest**

While there is a strong community-wide desire to plan for and to accommodate retail locations in all parts of the City, the critical evaluation of the established policies and criteria for allowing new commercial development areas should be done judiciously, to prevent establishing an open-door policy of allowing high intensity retail and commercial uses on the corner properties of every section line road in the City.

Not all areas of the community would have the necessary exposure and high volume future traffic counts to ensure that commercial developments would attract a healthy mix of good tenants over time. By allocating and zoning too many commercial areas within the City of Gardner, staff fears that the sustainability of many of the community's commercial areas could be compromised. With the recent rezoning of property at the northwest corner of 167<sup>th</sup> Street and Gardner Road for commercial use, the decision of whether or not to rezone this property for non-residential land uses needs to be carefully reevaluated.

The Planning Commission has evaluated and discussed at several meetings the issue of commercial development in the northwest growth region of the city. Based on these discussions, there was a general consensus that there should be no retail commercial development allowed at the intersection of 159<sup>th</sup> and Gardner Road and at the intersection of 167<sup>th</sup> Street and Four Corners Road due to the character of existing and planned land uses in these two regions. The other general point of consensus was to attempt to limit any new commercial development in the northwest region to only one of the four legs of an intersection for those areas that are slated deemed appropriate for neighborhood commercial centers.

### **The Preliminary Development Plan**

The submitted preliminary development plan is mostly identical to the revised development plan (PDP-06-08) submitted at the October 23, 2006 meeting, except that the applicant is now requesting C-O (Office Building District) for the 5.2 acre, southeast portion of the site. The revised preliminary development plan submitted with the rezoning request consists of 116,500 square feet of retail space and 24,200 square feet of office space for a total of 140,700 square feet of floor area.

The eastern portion of this subject property is being requested to be zoned to a Euclidean or standard C-O, Office Building zoning district. Limiting this portion of the subject site to the land uses only allowed in the Office zoning district does comply with Land Use Policy 2.3: "Allow low-intensity office development as an alternative transitional land use into low-density residential neighborhoods." Since C-O is not a planned zoning district, the consideration and approval of the submitted preliminary development plan is not necessarily applicable to the C-O portion of the rezoning request. However, it is very likely that this area will develop in a manner as denoted on the development plan to fully comply with the intent and conditions of this land use policy. If the zoning is approved as requested, the development of the office lots will be subject to review and approval of a site plan(s), and the individual buildings will need to be compatible in architectural design, height, bulk, and building materials to adjacent land uses.

Issues with this submitted development plan that may warrant additional discussion include that this plan has excessive parking over the city's minimum requirements. According to section 517.3 of the Zoning Ordinance, in Planned Commercial Districts "jointly used parking facilities may be permitted..." While this is not a requirement, the intention is to reduce the impervious surfaces in the development. Staff understands that potential tenants have minimum parking requirements that may exceed city requirements, but parking lots are typically designed to be at least twice as large as the anticipated average need due to the psychological reaction that the average person has to a full parking lot versus an almost-empty one. In shopping centers where tenants share parking areas, less excess is needed to achieve the desired effect. Without shared parking, the Zoning Ordinance would require this development to provide at least 563 parking spaces (a few more could be required, depending on the tenants); ideally, less would be provided due to shared parking. This preliminary development plan proposes 792 spaces—roughly forty percent more than required, even without any sharing allowed by the planned district.

6. **STAFF RECOMMENDATION:** Based upon the adopted Community Development Plan, staff recommends that the Planning Commission forward the rezoning application Z-07-05, rezoning 26.6 acres from A (Agricultural District) to CP-2 (Planned General Business District) and C-O (Office Building District), and the associated preliminary development plan (PDP-07-04), to the City Council with a recommendation for denial.

If the Planning Commission chooses to forward the rezoning application Z-07-05, and the associated preliminary development plan (PDP-07-04), to the City Council with a recommendation for approval, then staff recommends that it be subject to the following stipulations:

- a. The development shall be in accordance with Exhibit A (Preliminary Development Plan) which is filed in the office of the Planning Commission Secretary at City Hall and which are incorporated by reference as if set out in full herein.

- b. The proposed development zoned CP-2 shall be limited to 120,000 total square feet of commercial development.
- c. Prior to or concurrent with the application for final development plan approval, stormwater detention plans and calculations shall be submitted for review and approval by public works department staff.
- d. The location and geometrics of all driveways, public streets, and parking areas are subject to review and approval by community development department staff.
- e. The private street drive located 450 feet north of the intersection of 167<sup>th</sup> Street and Waverly Road may be limited to right-turn-only movements in the future when Waverly Road is widened to a standard City thoroughfare, or at such time as the City determines that restricting turning movements is needed to alleviate safety or operational problems.
- f. Prior to the issuance of building permits, the Planning Commission shall approve final development plan(s) for the CP-2 zoned area this subject property.
- g. Concurrent with construction of any new commercial structure and prior to the issuance of any form of Certificate of Occupancy, the developer shall construct right and left turn lanes and acceleration lane(s) on 167<sup>th</sup> Street.

Director Sherman presented the staff report.

Director Sherman explained to commissioners that this area is not shown as Commercial Development on the Future Land Use Plan.

Chairman Koranda asked for questions and comments from applicant.

David Waters of Lathrop & Gage expressed that his client, Jabez Development, L.L.C., is ready to move forward with this project and is willing to go along with current and future staff recommendations.

Director Sherman and the commissioners discussed current and future land use in the northwest area of Gardner and some of the policies of the City of Gardner.

Motion Schultz, Second Popp, to Close the Public Hearing at 7:41 P.M.  
Motion Carried: 6 to 0 Aye (Kilgore: Absent)

Chairman Koranda asked Commissioner Godwin to explain some of the comments Commissioner Godwin made at the July 23, 2007 meeting.  
Commissioner Godwin explained he feels it is too soon to approve a commercial rezoning on every corner in the City of Gardner.

Director Sherman and commissioners discussed commercial plans in other areas such as the City of Olathe at the intersections of 119<sup>th</sup> Street and Strang Line Road and 119<sup>th</sup> Street and Blackbob Road. Director Sherman pointed out some reasonable alternatives to rezoning on every corner.

Joel Riggs of Peridian Group, Inc. explained the applicant's vision of the future of the City of Gardner, including more commercial areas along 151<sup>st</sup> Street.

Director Sherman explained to the commissioners that the town will grow and has to grow.

Commissioner Mertz expressed she likes the plan.

Commissioner Popp agreed with Commissioner Mertz.

Commissioners and Mr. Riggs discussed possible reasons why previous plans approved by Planning Commission were denied by City Council.

Commissioner Godwin explained he is looking at long range planning and does not want commercial or retail at every corner but would like an area within walking distance for convenience.

Commissioner Mertz expressed that she feels this is an acceptable location and that the Planning Commission should amend the long range plan as desired.

Commissioner Popp expressed that the plans of the Planning Commission need direction.

Commissioners and Mr. Riggs discussed the proposed parking.

Director Sherman explained that the proposed plan greatly exceeds the City of Gardner's minimum required parking for the proposed use.

Commissioner Mertz remarked that exceeding the minimum requirement seems reasonable for this development.

Commissioner Godwin asked the applicant if a transit station would be possible.

Mr. Riggs believes his client would welcome a transit station and believes a transit station would equal community growth.

Motion Mertz, Second Schultz, to Approve and Forward the Preliminary Development Plan and Rezoning (PDP-07-04/Z-07-05) to the City Council with recommendations for approval, each subject to staff recommendations.

Motion Carried: 6 to 0 Aye (Kilgore: Absent.)

## **V. Adjourn**

Motion Mertz, Second Burnett, to Adjourn the meeting at 8:40 P.M.

Motion Carried: 6 to 0 Aye (Kilgore: Absent)

Angie Lind, Planning Service Specialist  
Community Development Department